THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION NO. 25525 OF 2007

DATED: 30-11-2007

Between:

M/s. Sirpur Paper Mills Limited, Sirpur-kaghaznagar,
Adilabad District, rep.by its Assistant Manager (Liaison),
D. Durga Prasad, S/o. late Sri D.Rajagopala Rao

… Petitioner

And

Employees State Insurance Corporation,
Hill Fort Road, Hyderabad, rep.by its
Assistant Director

… Respondent

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ORDER:

In view of the request made by the learned counsel for both the parties for disposal of the main writ petition, the writ petition itself is taken up for disposal.

This writ petition is filed by the petitioner-a public limited company against the order dated 16/19-11-2007 demanding an amount of Rs.12,69,000/- towards the contribution under the provisions of the Employees State Insurance Act, 1948(for short 'the Act'). The central Government made applicable the provisions of the Act for the employees, who are drawing salary between Rs.3000/- and Rs.6,500/- by notification dated 23-12-1996, which came into force from 01-01-1997 and which notification was the subject matter of challenge in a batch of cases before the Employees Insurance Court and Chairman, Industrial Tribunal, Hyderabad, constituted under the Act. By the judgment dated

25-07-2000 while upholding the validity of notification, the Tribunal observed that the same shall be given effect prospectively from the date of adjudication by the Tribunal i.e. 25-07-2000. Aggrieved by that part of the direction, the respondents have preferred C.M.A.908/2001 before this court and a Division Bench of this Court by order dated 19-07-2007 allowed the appeal and held that the petitioner is liable to pay the contribution along with their employees from the date of notification as per the notified date i.e. from 23-12-1996.

It is submitted that in similar circumstances, the Hon'ble Supreme Court in the case of ***EMPLOYEES STATE INSURANCE CORPORATION AND OTHERS v. JARDINE HENDERSON STAFF ASSOCIATION AND OTHERS***[1] while upholding the validity of the notification observed that it has to be applied from the date of the judgment of the Supreme Court. Relying on the said judgment, it is stated that the petitioner has already filed a review petition before this Court to review the judgment in C.M.A.No.908/2001 and the same is pending consideration. The impugned demand is made to recover the contributions for the period from 01-01-1997 to the date of the adjudication made by the Tribunal with regard to the validity of the notification. Inasmuch as when the notice was issued to the petitioner, the petitioner has filed reply stating that against the judgment in C.M.A.908/2001, he has already filed a review application and the same is pending consideration. But, however, in spite of the same, on the ground that there are no interim orders in the review petition, filed in C.M.A.908/2001, the impugned demand is made.

Whether the petitioner is liable for payment of contribution from 01-01-1997 is a matter, which will depend on the outcome of the review petition filed in C.M.A.908/2001. As much as the petitioner has relied on the judgment of the Apex Court, referred above, in support of his plea that it is liable only from the date of adjudication, but not from the date of notification, I deem it appropriate that the impugned demand shall not be enforced till the disposal of the review petition

filed by the petitioner.

Accordingly, there shall be a direction to the respondents not to enforce the impugned demand, till appropriate orders are passed in the review petition filed by the petitioner in C.M.A.908/2001.

Subject to the above direction, writ petition is disposed of. No order as to costs.

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R. SUBHASH REDDY, J.

Dt: 30-11-2007
Rns

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RNS

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[1] AIR 2006 SUPREME COURT 2767